



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC MAIL

August 25, 2021

Amanda La Forge, Esq.
Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.
1090 Vermont Avenue, NW, Suite 750
Washington, DC 20005
laforge@sandlerreiff.com

RE: MUR 7647
Alexandra Chalupa
Chalupa & Associates, LLC

Dear Ms. La Forge:

On October 7, 2019, and January 29, 2020, the Federal Election Commission notified your clients, Alexandra Chalupa and Chalupa & Associates, LLC, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On August 11, 2021, the Commission found no reason to believe that your clients violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by soliciting, accepting, or receiving prohibited foreign national contributions with respect to the allegations concerning opposition research and an alleged request to make a comment to the press. Additionally, the Commission exercised its prosecutorial discretion to dismiss the allegation that your clients violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by soliciting, accepting, or receiving prohibited foreign national contributions with respect to the allegation that there was a request that Ukrainian officials ask a member of Congress to initiate hearings on Paul Manafort. Accordingly, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information. If you have any questions, please contact Laura Conley, the attorney assigned to this matter, at (202) 694-1475 or lconley@fec.gov.

Sincerely,

A handwritten signature in blue ink that reads "Claudio Pavia".

Claudio J. Pavia
Acting Assistant General Counsel

Enclosure:

Factual and Legal Analysis

FEDERAL ELECTION COMMISSION FACTUAL AND LEGAL ANALYSIS

Respondents: Democratic National Committee and
Virginia McGregor in her official capacity
as treasurer
Alexandra Chalupa
Chalupa & Associates, LLC

MUR 7647

I. INTRODUCTION

11 This matter was generated by a Complaint filed with the Federal Election Commission by
12 the Committee to Defeat the President (f/k/a Committee to Defend the President), alleging that
13 during the 2016 election, Alexandra Chalupa, acting as an agent of the Democratic National
14 Committee and Virginia McGregor in her official capacity as treasurer (the “DNC”), solicited,
15 accepted, and received in-kind contributions from Ukrainian officials, in violation of the foreign
16 national prohibition of the Federal Election Campaign Act of 1971, as amended (the “Act”). The
17 Complaint alleges that Chalupa (1) sought opposition research from Ukrainian officials on
18 presidential candidate Donald J. Trump and former Trump campaign official Paul Manafort; (2)
19 asked Ukrainian officials to arrange for then-Ukrainian President Petro Poroshenko to make a
20 comment to the press on Manafort’s activities in Ukraine; and (3) requested that Ukrainian
21 officials ask a member of the U.S. Congress to initiate hearings on Manafort regarding his prior
22 political consulting work. Respondents deny the allegations. They assert that Chalupa interacted
23 with Ukrainian officials only in her personal capacity and that, in any case, she did not solicit or
24 receive any contributions.

25 The Commission has previously considered the bulk of the allegations presented in this
26 matter. In MUR 7271 (DNC, *et al.*), the Commission initially found reason to believe that
27 Chalupa, her company, Chalupa & Associates, LLC (“C&A”), and the DNC violated the foreign

1 national prohibition.¹ The Commission conducted an investigation and subsequently found no
 2 probable cause to believe that a violation had occurred.² One of the allegations in the instant
 3 MUR 7647 Complaint, *i.e.*, that Chalupa asked Ukrainian officials to request that a member of
 4 Congress initiate hearings on Manafort, was not included in the prior matter and was therefore
 5 not analyzed by the Commission. However, the statute of limitations as to that allegation has
 6 expired. Moreover, the Commission has already conducted an investigation regarding Chalupa's
 7 interactions with the Ukrainian Embassy and obtained only limited information about this
 8 request. Accordingly, consistent with its earlier determinations, the Commission finds no reason
 9 to believe that the Act was violated in connection with the first two allegations in this Complaint
 10 and exercises its prosecutorial discretion to dismiss the remaining allegation.

11 **II. FACTUAL BACKGROUND**

12 During the 2016 election, Chalupa, through C&A, worked as a consultant for the DNC.³
 13 The DNC and Chalupa contend that the scope of her work was "to engage in political outreach to
 14 American ethnic communities."⁴ In 2014, Chalupa reportedly began researching Manafort and
 15 his ties to Ukraine, and in 2016 she informed a DNC official that she suspected Manafort would
 16 play a role in the upcoming U.S. presidential election.⁵

17 An article in *Politico*, which was the primary basis for the complaint in MUR 7271 and is
 18 also the primary basis for the instant Complaint, alleged that "with the DNC's encouragement,

¹ Certification ¶ 1 (July 29, 2019), MUR 7271 (DNC, *et al.*).

² Certification ¶ 1 (Apr. 8, 2021), MUR 7271 (DNC, *et al.*).

³ *E.g.*, DNC Amended July Quarterly Report at 4243 (Oct. 25, 2016). The DNC paid C&A \$40,000 in 2016 for "political consulting" and \$30,000 in 2015 for "event consulting."

⁴ Chalupa Resp. at 2 (Dec. 23, 2019); *accord* DNC Resp. at 3 (Nov. 25, 2019).

⁵ Kenneth P. Vogel & David Stern, *Ukrainian Efforts to Sabotage Trump Backfire*, POLITICO, Jan. 11, 2017, <https://www.politico.com/story/2017/01/ukraine-sabotage-trump-backfire-233446> (cited in Compl. ¶ 4 (Oct. 1, 2019)).

MUR 7647 (DNC, *et al.*)
 Factual and Legal Analysis
 Page 3 of 7

1 Chalupa asked [Ukrainian] embassy staff to try to arrange an interview in which Poroshenko
 2 might discuss Manafort's ties to [former Ukrainian President Viktor] Yanukovych.⁶ Relatedly,
 3 the *Politico* article reported that Chalupa sought to arrange a congressional investigation of
 4 Manafort,⁷ and a column published as an opinion piece in *The Hill* quoted the Embassy as stating
 5 that Chalupa "floated" the idea of "approaching a Member of Congress with a purpose to initiate
 6 hearings on Paul Manafort."⁸

7 The *Politico* article also contains statements from Andrii Telizhenko, a former political
 8 officer from the Ukrainian Embassy, who said he met with Chalupa and Oksana Shulyar, a
 9 senior diplomat from the Embassy.⁹ Subsequent revelations about Telizhenko cast significant
 10 doubt on his credibility.¹⁰ In the *Politico* article, Shulyar denies working with Chalupa on
 11 anything related to Trump or Manafort.¹¹

⁶ *Id.*; Compl. ¶ 4; Compl. ¶ 6, MUR 7271 (DNC, *et al.*) ("MUR 7271 Complaint").

⁷ Vogel & Stern, *supra* note 5. Chalupa stated in the article that she discussed a potential hearing with a legislative assistant in the office of Rep. Marcy Kaptur but that it "didn't go anywhere." *Id.*

⁸ John Solomon, *Ukrainian Embassy Confirms DNC Contractor Solicited Trump Dirt in 2016*, THE HILL, May 2, 2019, <https://thehill.com/opinion/white-house/441892-ukrainian-embassy-confirms-dnc-contractor-solicited-trump-dirt-in-2016> (cited in Compl. ¶ 5) ("Solomon Column"). Chalupa and the DNC argue that Solomon's work is not credible and that it was under review by his former employer, *The Hill*. Chalupa Resp. at 3; DNC Resp. at 6 n.24. *The Hill* has since completed the review and added an editor's note to this story acknowledging that U.S. officials and Chalupa have disputed that Ukraine "meddled in the 2016 election" and that Chalupa has also "strongly disputed John Solomon's columns on Ukraine" on her social media. Solomon Column; *see also The Hill's Review of John Solomon's Columns on Ukraine*, THE HILL, Feb. 19, 2020, <https://thehill.com/homenews/news/483600-the-hills-review-of-john-solomons-columns-on-ukraine>.

⁹ Vogel & Stern, *supra* note 5.

¹⁰ In March 2020, the *New York Times* reported that staff from the Senate Homeland Security and Governmental Affairs Committee received an FBI briefing suggesting that Telizhenko could be spreading Russian disinformation. Kenneth Vogel & Nicholas Fandos, *Senate Panel Delays Subpoena Vote Over Concerns About Ukraine Witness*, N.Y. TIMES, Mar. 11, 2020. On January 11, 2021, Telizhenko was among several Ukrainians officially sanctioned by the U.S. Treasury Department for helping spread Russian disinformation in connection with the 2020 U.S. presidential election. Press Release, *Treasury Takes Further Action Against Russian-Linked Actors* (Jan. 11, 2021), <https://home.treasury.gov/news/press-releases/sm1232>.

¹¹ Vogel & Stern, *supra* note 5.

1 Drawing primarily on the *Politico* article, the Complaint in this matter alleges that
 2 Chalupa, acting as an agent of the DNC, solicited in-kind contributions from Ukrainian officials
 3 in the form of opposition research and a public comment by President Poroshenko, the same
 4 allegations presented in the MUR 7271 Complaint.¹² The Complaint also makes a third
 5 allegation, that Chalupa solicited an in-kind contribution by asking Ukrainian officials to request
 6 that a member of the U.S. Congress initiate hearings on Manafort.¹³

7 In response, Chalupa denies that she sought “documents, research, or any other
 8 information” about Manafort from the Ukrainian Embassy and argues that she interacted with the
 9 embassy only in her personal capacity.¹⁴ The DNC argues that Chalupa’s contracts barred her
 10 from soliciting contributions on the DNC’s behalf and that any interactions she had with the
 11 embassy in her personal capacity are not attributable to the DNC.¹⁵ Finally, Respondents
 12 contend that answering a question at a press conference does not constitute a contribution under
 13 the Act.¹⁶

14 **III. LEGAL ANALYSIS**

15 The Act and Commission regulations prohibit any foreign national from directly or
 16 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
 17 in connection with a federal, state, or local election.¹⁷ The Act’s definition of “foreign national”
 18 includes an individual who is not a citizen or national of the United States and who is not

¹² Compl. ¶¶ 5-7; MUR 7271 Compl. ¶¶ 23-25.

¹³ Compl. ¶¶ 5, 7.

¹⁴ Chalupa Resp. at 3-4.

¹⁵ DNC Resp. at 3-5; DNC Resp. at 2-5, MUR 7271 (DNC *et al.*).

¹⁶ DNC Resp. at 8; Chalupa Resp. at 5.

¹⁷ 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(b), (c), (f).

1 lawfully admitted for permanent residence, as well as a “foreign principal” as defined at
 2 22 U.S.C. § 611(b), which, in turn, includes a “government of a foreign country.”¹⁸ No person
 3 shall knowingly solicit, accept, or receive a prohibited foreign national contribution.¹⁹

4 The Act defines “contribution” as “any gift, subscription, loan, advance, or deposit of
 5 money or anything of value made by any person for the purpose of influencing any election for
 6 Federal office.”²⁰ “[A]nything of value includes all in-kind contributions” such as “the provision
 7 of any goods or services without charge or at a charge that is less than the usual and normal
 8 charge.”²¹ The Commission has recognized the “broad scope” of the foreign national
 9 contribution prohibition and found that even where the value of a good “may be nominal or
 10 difficult to ascertain,” such contributions are nevertheless prohibited.²²

11 In MUR 7271, the Commission found reason to believe that Chalupa, C&A, and the
 12 DNC violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by soliciting, accepting, or
 13 receiving contributions from Ukrainian officials.²³ After conducting an investigation, however,

¹⁸ 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(1); *see also* 11 C.F.R. § 110.20(a)(3).

¹⁹ 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g). The term “knowingly” is defined as having “actual knowledge” that the source is a foreign national, or being aware of “facts that would lead a reasonable person to conclude that there is a substantial probability that” or “facts that would lead a reasonable person to inquire whether” the source is a foreign national. 11 C.F.R. § 110.20(a)(4).

²⁰ 52 U.S.C. § 30101(8)(A)(i).

²¹ 11 C.F.R. § 100.52(d)(1); *see* Advisory Op. 2007-22 at 5 (Hurysz) (“AO 2007-22”).

²² AO 2007-22 at 6 (citing Contribution Limitations and Prohibitions, 67 Fed. Reg. 69,928, 69,940 (Nov. 19, 2002) (“As indicated by the title of section 303 of BCRA, ‘Strengthening Foreign Money Ban,’ Congress amended [52 U.S.C. § 30121] to further delineate and *expand* the ban on contributions, donations, and other things of value by foreign nationals.”) (emphasis added)).

²³ Certification ¶ 1 (July 29, 2019), MUR 7271 (DNC, *et al.*); Factual & Legal Analysis (“F&LA”), MUR 7271 (DNC); F&LA, MUR 7271 (Chalupa, *et al.*).

1 the Commission found no probable cause to believe that Respondents had violated 52 U.S.C.
 2 § 30121(a)(2) and 11 C.F.R. § 110.20(g), and closed the file.²⁴

3 The instant Complaint makes two allegations identical to those in MUR 7271, citing to
 4 the same *Politico* news article that was the chief support for that complaint, namely that Chalupa,
 5 acting as an agent of the DNC, solicited opposition research from Ukrainian officials, and
 6 requested that Ukrainian officials arrange for then-Ukrainian President Poroshenko to make a
 7 public statement on Manafort.²⁵ The Complaint presents no additional material facts that would
 8 alter the Commission’s previous determinations as to those allegations. Because the
 9 Commission has already conducted an investigation and determined that there is no probable
 10 cause to believe that Respondents violated the Act with respect to the same allegations, the
 11 Commission finds no reason to believe here that the materially indistinguishable allegations in
 12 this matter constitute violations of 52 U.S.C. § 30121(a)(2) or 11 C.F.R. § 110.20(g).

13 The Complaint’s final allegation is that Chalupa, as a DNC agent, solicited a contribution
 14 by requesting that “Poroshenko or another Ukrainian government official ask a Member of the
 15 U.S. Congress to hold hearings on Manafort and his work in Russia.”²⁶ This allegation was not
 16 raised in MUR 7271. Nonetheless, in the course of the investigation in MUR 7271, the
 17 Commission received some pertinent information from Shulyar, who stated that Chalupa did ask
 18 that the Embassy approach a Member of Congress about initiating an investigation, and that the

²⁴ Certification ¶¶ 1, 5 (Apr. 8, 2021), MUR 7271 (DNC, *et al.*); *see also* Second Gen. Counsel’s Rpt. at 31, MUR 7271 (DNC, *et al.*) (“MUR 7271 Second GCR”) (recommending no further action as to allegation that respondents solicited, accepted, or received opposition research from Ukrainian officials due to conflicting testimony, lack of corroborating documents, and credibility considerations).

²⁵ Compare MUR 7647 Compl. ¶¶ 16-19, with MUR 7271 Compl. ¶¶ 22-29.

²⁶ Compl. ¶ 7.

MUR 7647 (DNC, *et al.*)
Factual and Legal Analysis
Page 7 of 7

1 Embassy denied her request.²⁷ Given the available information, it appears that this request
2 occurred around the time when Shulyar and Chalupa were planning a cultural event called the
3 House of Ukraine.²⁸ That event reportedly took place in June 2016.²⁹ Consequently, the five-
4 year statute of limitations as to that allegation appears to have expired.³⁰ Accordingly, it would
5 not be a prudent use of the Commission's limited resources to pursue this allegation further.³¹
6 The Commission therefore exercises its prosecutorial discretion to dismiss this allegation and
7 closes the file.³²

²⁷ MUR 7271 Second GCR at 22.

²⁸ *See id.* at 9 (stating that Chalupa's first substantial contact with Shulyar took place at a March 24, 2016, meeting to discuss House of Ukraine).

²⁹ Vogel & Stern, *supra* note 5.

³⁰ 28 U.S.C. § 2462.

³¹ See F&LA at 3-4, MUR 7308 (Adam H. Victor, *et al.*) (dismissing complaint alleging new violations in previously conciliated MURs when newly alleged conduct was beyond the statute of limitations).

³² *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).